

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN

[E.L.B.], by her Next Friend,
STACEY NICOLE BAKER also as an individual
Plaintiff; [J.B.], by his Next Friend,
STEFANIE BRULE, also as an individual
Plaintiff; [N.B.] by his Next Friend,
STEFANIE BRULE; [T.J.R].
by his Next Friend, ANGELA ROBERTS, also as an
individual plaintiff; and [E.B.], by
her Next Friend, KAREN GARLANGER, also as an
individual plaintiff,

Hon.
Case No.

Plaintiffs,

Honorable Donna B. Howard
No. 2022-0014-CZ-H
Berrien County Circuit Court

v

WATERVLIET PUBLIC SCHOOLS, SUPT. RIC
SEAGER, WATERVLIET BOARD OF EDUCATION,
LAKESHORE PUBLIC SCHOOLS, SUPT. GREG
EDING, LAKESHORE PUBLIC SCHOOL BOARD
OF EDUCATION, ST JOSEPH PUBLIC SCHOOLS,
SUPT. JENNY FEE, and ST JOSEPH PUBLIC SCHOOLS
BOARD OF EDUCATION

Defendants.

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DEFENDANTS'
NOTICE OF REMOVAL PURSUANT TO 28 U.S.C. § 1441(a) and § 1446(b)

PLEASE TAKE NOTICE that Defendants WATERVLIET PUBLIC SCHOOLS,
SUPERINTENDENT RIC SEAGER, WATERVLIET BOARD OF EDUCATION (collectively

“Watervliet”), LAKESHORE PUBLIC SCHOOLS, SUPERINTENDENT GREG EDING, LAKESHORE PUBLIC SCHOOLS BOARD OF EDUCATION (collectively “Lakeshore”), ST. JOSEPH PUBLIC SCHOOLS, SUPERINTENDENT JENNY FEE, and ST. JOSEPH PUBLIC SCHOOLS BOARD OF EDUCATION (collectively “St. Joseph”) (and all collectively “Defendants”), by and through their counsel, hereby removes the matter entitled *Baker, et al. v. Watervliet Public Schools, et al.*, Case No. 22-0014-CZ-H, currently pending in Berrien County Circuit Court (Michigan), to the United States District Court for the Western District of Michigan. The bases for removal are set forth below:

STATEMENT OF GROUNDS FOR REMOVAL

1. The Plaintiff commenced this action by filing a complaint in the Berrien County Circuit Court on or about January 21, 2022.
2. Defendants were served with the Summons and Complaint on or about January 26 and 27, 2022.
3. A copy of the Summons and Complaint, the Plaintiffs’ Emergency Motion for Temporary Restraining Order Or In the Alternative Motion For An Order to Show Cause, and Plaintiffs’ Motion for Immediate Declaratory Judgment, which constitute all process and pleadings received by the District, are attached as composite **Exhibit 1 - 3**. No other pleadings have been filed in the state court.
4. The required Civil Cover Sheet is attached as **Exhibit 4**.
5. This notice of removal is being filed within 30 days after receiving notice of the complaint by service or otherwise as required by 28 U.S.C. § 1446(b).
6. This Court has jurisdiction over this case based federal question jurisdiction pursuant to 28 U.S.C. § 1441(a) and 28 U.S.C. § 1331.

PLAINTIFF'S FEDERAL CLAIM

7. As a general matter, the Plaintiffs allege that the Defendants' COVID-19 protocols requiring the use of face masks while attending school in-person violates various alleged rights of the Plaintiffs.

8. The Plaintiffs allege various state law claims contending that the Defendants lack authority to require face masks (Count I), that Michigan's Public Health Code does not authorize a face mask requirement (Counts II and III), that administrative rules under the Public Health Code also do not authorize such (Count IV), the Defendants are violating provisions of Michigan's Revised School Code (Counts V – VII), injunctive relief (Count VIII), a violation of Michigan's and the 14th Amendment's Due Process provisions (Count IX), and a challenge under Michigan's non-delegation doctrine (Count X).

9. The Plaintiffs specifically alleges that the Defendants violated their minor children's procedural due process rights under the 14th Amendment of the U.S. Constitution (Count X, Complaint, ¶¶ 132, 135).).

10. The Plaintiff also alleges that the District's actions violated her children's rights to Equal Protection under the 14th Amendment (Count VIII).

11. All Defendants consent to removal pursuant to 28 U.S.C. § 1446(b)(2)(A).

12. The prerequisites for removal to this Court have been satisfied to the extent required under 28 U.S.C. §§ 1441(a) and 1446(a) – (b).

13. Written notice of the filing of this notice of removal will be given to the Plaintiffs as required by law.

14. The allegations of this notice are true and correct and this cause is within the jurisdiction of the United States District Court for the Western District of Michigan.

Defendants file this notice of removal and remove this state court civil action to the United States District Court for the Western District of Michigan. Plaintiffs are notified to proceed no further in state court unless or until the case should be remanded by order of said United States District Court.

Respectfully submitted,

GIARMARCO, MULLINS & HORTON,P.C.

/s/ Travis Comstock

Attorney for Defendants Watervliet Public Schools, Superintendent Ric Seager, Watervliet Board Of Education, Lakeshore Public Schools, Superintendent Greg Eding, Lakeshore Public School Board Of Education, St. Joseph Public Schools, Superintendent Jenny Fee, and St. Joseph Public Schools Board Of Education
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Dated: February 15, 2022